

SENATE BILL No. 446

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-23-3-26.

Synopsis: Manufacturer or distributor unfair practice. Provides that an automotive manufacturer or distributor commits an unfair practice when the manufacturer or dealer takes an adverse action against an automotive dealer because the dealer sold or leased a vehicle to a customer who exported the vehicle to a foreign country or who resold the vehicle, with certain exceptions.

Effective: July 1, 2009.

Head

January 14, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 446

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-23-3-26 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 26. (a) Notwithstanding the terms of a franchise**
4 **agreement, a manufacturer or distributor commits an unfair**
5 **practice by means of a program, policy, or procedure, when the**
6 **manufacturer or distributor has:**

- 7 (1) refused to allocate, sell, or deliver motor vehicles;
8 (2) charged back to the dealer or withheld payments or other
9 things of value from the dealer for which the dealer is
10 otherwise eligible under a sales promotion, program, or
11 contest;
12 (3) prevented a dealer from participating in a promotion,
13 program, or contest; or
14 (4) taken or threatened to take any adverse action against a
15 dealer, including but not limited to charge backs, reducing
16 vehicle allocations, or terminating or threatening to terminate
17 a franchise;



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1 because the dealer sold or leased a vehicle to a customer who
2 exported the vehicle to a foreign country or who resold the vehicle,
3 unless the manufacturer or distributor definitively proves that the
4 dealer had actual knowledge that the customer intended to export
5 or resell the vehicle.

6 (b) There is an irrebuttable presumption that the dealer had no
7 actual knowledge that the customer intended to export or resell the
8 vehicle if:

9 (1) the vehicle is titled or registered in any state in the United
10 States;

11 (2) proper sales tax has been collected by a taxing authority;
12 or

13 (3) both subdivisions (1) and (2).

14 However, the irrebuttable presumption also applies if the dealer
15 has obtained the proper sales tax exemption documentation and
16 maintains the exemption on file or the transaction is exempt from
17 vehicle registration requirements under IC 9-18-2, or both.

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